



House of Representatives

File No. 611

General Assembly

February Session, 2004

(Reprint of File No. 150)

Substitute House Bill No. 5411
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 16, 2004

AN ACT CONCERNING CONSUMER CREDIT LICENSEES AND CREDITORS' COLLECTION PRACTICES.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 36a-485 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 As used in this section and sections 36a-486 to [36a-498] 36a-498a,
4 inclusive, as amended by this act, unless the context otherwise
5 requires:

6 (1) "Advance fee" means any consideration paid or given, directly or
7 indirectly, to a mortgage lender, first mortgage broker or originator
8 required to be licensed or registered pursuant to sections 36a-485 to
9 [36a-498] 36a-498a, inclusive, as amended by this act, prior to the
10 closing of a first mortgage loan to any person, including, but not
11 limited to, loan fees, points, broker's fees or commissions, transaction
12 fees or similar prepaid finance charges;

13 (2) "Advertise" or "advertisement" means the use of media, mail,

14 computer, telephone, personal contact or any other means to offer the
15 opportunity for a first mortgage loan;

16 (3) "First mortgage broker" means a person who, for a fee,
17 commission or other valuable consideration, directly or indirectly,
18 negotiates, solicits, arranges, places or finds a first mortgage loan that
19 is to be made by a mortgage lender, whether or not the mortgage
20 lender is required to be licensed under sections 36a-485 to [36a-498]
21 36a-498a, inclusive, as amended by this act;

22 (4) "First mortgage correspondent lender" means a person engaged
23 in the business of making first mortgage loans in such persons own
24 name where the loans are not held by such person for more than
25 ninety days and are funded by another person through a warehouse
26 agreement, table funding agreement or similar agreement;

27 (5) "First mortgage lender" means a person engaged in the business
28 of making first mortgage loans: (A) In such person's own name
29 utilizing such person's own funds, or (B) by funding loans through a
30 table funding agreement;

31 (6) "First mortgage loan" means a loan or an extension of credit,
32 including, but not limited to, an extension of credit pursuant to a
33 contract or an assigned contract for the sale of goods or services, made
34 to a natural person, the proceeds of which are to be used primarily for
35 personal, family or household purposes, and which is secured by a
36 first mortgage upon any interest in one-to-four-family residential
37 owner-occupied real property located in this state which is not subject
38 to any prior mortgages and includes the renewal or refinancing of an
39 existing first mortgage loan;

40 (7) "Mortgage lender" means a first mortgage lender, a first
41 mortgage correspondent lender, or both;

42 (8) "Originator" means an individual who is employed or retained
43 by a mortgage lender or first mortgage broker that is required to be
44 licensed under sections 36a-485 to [36a-498] 36a-498a, inclusive, as

45 amended by this act, for, or with the expectation of, a fee, commission
46 or other valuable consideration, to negotiate, solicit, arrange or find a
47 first mortgage loan. "Originator" does not include an officer, if the
48 licensee is a corporation; a general partner, if the licensee is a
49 partnership; a member, if the licensee is a limited liability company; or
50 a sole proprietor, if the licensee is a sole proprietorship;

51 (9) "Residential property" means improved real property used or
52 occupied, or intended to be used or occupied, for residential purposes;

53 (10) "Simulated check" means a document that imitates or resembles
54 a check but is not a negotiable instrument;

55 (11) "Table funding agreement" means an agreement wherein a
56 person agrees to fund mortgage loans to be made in another person's
57 name and to purchase such loans after they are made; and

58 (12) "Warehouse agreement" means an agreement to provide credit
59 to a person to enable the person to have funds to make mortgage loans
60 and hold such loans pending sale to other persons.

61 Sec. 2. Section 36a-486 of the general statutes is repealed and the
62 following is substituted in lieu thereof (*Effective October 1, 2004*):

63 (a) No person shall engage in the business of making first mortgage
64 loans or act as a first mortgage broker in this state unless such person
65 has first obtained the required license in accordance with the
66 provisions of sections 36a-485 to [36a-498] 36a-498a, inclusive, as
67 amended by this act. A first mortgage correspondent lender shall not
68 be deemed to be acting as a first mortgage lender if such first mortgage
69 correspondent lender makes a loan utilizing its own funds in a
70 situation where another person does not honor such person's
71 commitment to fund the loan.

72 (b) No licensee shall employ or retain an originator without first
73 registering such originator under sections 36a-485 to [36a-498] 36a-
74 498a, inclusive, as amended by this act, provided such registration

75 shall not be required for any originator who is registered by such
76 licensee under sections 36a-510 to 36a-524, inclusive, as amended by
77 this act. No individual may act as an originator without being
78 registered, or act as an originator, as defined in sections 36a-485, as
79 amended by this act, and 36a-510, for more than one person. The
80 registration of an originator is not effective during any period when
81 such originator is not associated with a licensee. Both the originator
82 and the licensee shall promptly notify the commissioner, in writing, of
83 the termination of employment or services of an originator.

84 (c) Each first mortgage loan negotiated, solicited, placed, found or
85 made without a license or registration shall constitute a separate
86 violation for purposes of section 36a-50, as amended.

87 Sec. 3. Section 36a-487 of the general statutes is repealed and the
88 following is substituted in lieu thereof (*Effective October 1, 2004*):

89 The following are exempt from licensing under sections 36a-485 to
90 [36a-498] 36a-498a, inclusive, as amended by this act:

91 (1) Any bank, out-of-state bank, Connecticut credit union, federal
92 credit union, or out-of-state credit union, provided subsidiaries of such
93 institutions are not exempt from licensure;

94 (2) Persons making five or fewer first mortgage loans within any
95 period of twelve consecutive months;

96 (3) Bona fide nonprofit corporations making first mortgage loans to
97 promote home ownership for the economically disadvantaged;

98 (4) Agencies of the federal government, or any state or municipal
99 government, or any quasi-governmental agency making first mortgage
100 loans under the specific authority of the laws of any state or the United
101 States;

102 (5) Persons licensed under sections 36a-555 to 36a-573, inclusive, as
103 amended by this act, when making loans authorized by said sections;

104 (6) Persons licensed under sections 36a-510 to 36a-524, inclusive, as
105 amended by this act, when making loans authorized by said sections,
106 provided such licensed mortgage lender makes less than twelve first
107 mortgage loans within any period of twelve consecutive months;

108 (7) Any corporation or its affiliate which makes first mortgage loans
109 exclusively for the benefit of its employees or agents;

110 (8) Any corporation, licensed in accordance with section 38a-41, or
111 its affiliate or subsidiary, which makes first mortgage loans to promote
112 home ownership in urban areas; and

113 (9) Persons acting as fiduciaries with respect to any employee
114 pension benefit plan qualified under the Internal Revenue Code of
115 1986, or any subsequent corresponding internal revenue code of the
116 United States, as from time to time amended, who make first mortgage
117 loans solely to plan participants from plan assets.

118 Sec. 4. Section 36a-489 of the general statutes is repealed and the
119 following is substituted in lieu thereof (*Effective October 1, 2004*):

120 (a) If the commissioner finds, upon the filing of an application for a
121 license, that the applicant meets the requirements of subsection (a) of
122 section 36a-488, and that the financial responsibility, character,
123 reputation, integrity and general fitness of the applicant and of the
124 partners thereof if the applicant is a partnership, of the members if the
125 applicant is a limited liability company or association, and of the
126 officers, directors and principal employees if the applicant is a
127 corporation, are such as to warrant belief that the business will be
128 operated soundly and efficiently, in the public interest and consistent
129 with the purposes of sections 36a-485 to [36a-498] 36a-498a, inclusive,
130 as amended by this act, the commissioner may thereupon issue the
131 applicant the license. If the commissioner fails to make such findings,
132 or if the commissioner finds that the applicant has made a material
133 misstatement in the application, the commissioner shall not issue a
134 license, and shall notify the applicant of the denial and the reasons for
135 such denial. Any denial of an application by the commissioner shall,

136 when applicable, be subject to the provisions of section 46a-80.

137 (b) Upon the filing of an application for registration, the
138 commissioner shall register the originator named in the application
139 unless the commissioner finds that the applicant has made a material
140 misstatement in the application or that the financial responsibility,
141 character, reputation, integrity and general fitness of the originator
142 named in the application, are not such as to warrant belief that
143 granting such registration would be in the public interest and
144 consistent with the purposes of sections 36a-485 to [36a-498] 36a-498a,
145 inclusive, as amended by this act. If the commissioner denies
146 registration, the commissioner shall notify the originator named in the
147 application and the applicant filing the application of the denial and
148 the reasons for such denial. Any denial of an application by the
149 commissioner shall, when applicable, be subject to the provisions of
150 section 46a-80. A registration shall remain in force and effect until it
151 has been surrendered, revoked, suspended or expires in accordance
152 with the provisions of sections 36a-485 to [36a-498] 36a-498a, inclusive,
153 as amended by this act.

154 Sec. 5. Subsection (c) of section 36a-490 of the general statutes is
155 repealed and the following is substituted in lieu thereof (*Effective*
156 *October 1, 2004*):

157 (c) Each license shall remain in force and effect until it has been
158 surrendered, revoked, suspended or expires in accordance with the
159 provisions of sections 36a-485 to [36a-498] 36a-498a, inclusive, as
160 amended by this act.

161 Sec. 6. Section 36a-491 of the general statutes is repealed and the
162 following is substituted in lieu thereof (*Effective October 1, 2004*):

163 (a) (1) Each applicant for a first mortgage lender license or a first
164 mortgage correspondent lender license shall, at the time of making
165 such application, pay to the commissioner a license fee of eight
166 hundred dollars, provided if such application is filed not earlier than
167 one year before the date such license will expire, the applicant shall

168 pay to the commissioner a license fee of four hundred dollars. Each
169 applicant for a first mortgage broker license shall, at the time of
170 making such application, pay to the commissioner a license fee of four
171 hundred dollars, provided if such application is filed not earlier than
172 one year before the date such license will expire, the applicant shall
173 pay to the commissioner a license fee of two hundred dollars. Each
174 license issued pursuant to [this] section 36a-489, as amended by this
175 act, shall expire at the close of business on September thirtieth of the
176 even-numbered year following its issuance unless such license is
177 renewed. Such licensee shall, on or before September first of the year in
178 which the license expires, pay to the commissioner the appropriate
179 license fee as provided in this section for the succeeding two years,
180 commencing October first, together with such renewal application as
181 the commissioner may require. Any renewal application filed with the
182 commissioner after September first shall be accompanied by a one-
183 hundred-dollar late fee. Whenever an application for a license, other
184 than a renewal application, is filed under sections 36a-485 to [36a-498]
185 36a-498a, inclusive, as amended by this act, by any person who was a
186 licensee under said sections and whose license expired less than sixty
187 days prior to the date such application was filed, such application shall
188 be accompanied by a one-hundred-dollar processing fee in addition to
189 the application fee.

190 (2) A licensee filing an application for registration of an originator
191 shall, at the time of making such application, pay to the commissioner
192 a registration fee of one hundred dollars for such originator, provided
193 if such application is filed not earlier than one year before the date the
194 license of the applicant will expire, the applicant shall pay to the
195 commissioner a registration fee of fifty dollars for such originator.
196 Each registration shall expire at such time as the licensee's license
197 expires unless such registration is renewed. Such licensee shall file an
198 application for renewal of the registration and pay to the commissioner
199 the appropriate registration fee as provided in this subsection for the
200 succeeding two years, commencing October first.

201 (3) (A) If the commissioner determines that a check filed with the

202 commissioner to pay a license fee under subdivision (1) of this
203 subsection has been dishonored, the commissioner shall automatically
204 suspend the license or a renewal license that has been issued but is not
205 yet effective. The commissioner shall give the licensee notice of the
206 automatic suspension pending proceedings for revocation or refusal to
207 renew and an opportunity for a hearing on such actions in accordance
208 with section 36a-51.

209 (B) If the commissioner determines that a check filed with the
210 commissioner to pay a registration fee has been dishonored, the
211 commissioner shall automatically suspend the registration or a
212 registration that has been issued but is not yet effective. The
213 commissioner shall give the originator notice of the automatic
214 suspension and the licensee notice of the automatic suspension
215 pending proceedings for revocation or refusal to renew and an
216 opportunity for a hearing on such actions in accordance with section
217 36a-51.

218 (b) No abatement of the license or registration fee shall be made if
219 the license or registration is surrendered, revoked or suspended prior
220 to the expiration of the period for which it was issued. All fees
221 required by this section shall be nonrefundable.

222 Sec. 7. Section 36a-492 of the general statutes is repealed and the
223 following is substituted in lieu thereof (*Effective October 1, 2004*):

224 (a) No such license, and no renewal thereof, shall be granted unless
225 the applicant has filed a bond with the commissioner written by a
226 surety authorized to write such bonds in this state, in the sum of forty
227 thousand dollars, the form of which shall be approved by the Attorney
228 General. Such bond shall be conditioned upon such licensee faithfully
229 performing any and all written agreements or commitments with or
230 for the benefit of borrowers and prospective borrowers, truly and
231 faithfully accounting for all funds received from a borrower or
232 prospective borrower by the licensee in the licensee's capacity as a
233 mortgage lender or a first mortgage broker, and conducting such

234 mortgage business consistent with the provisions of sections 36a-485 to
235 [36a-498] 36a-498a, inclusive, as amended by this act. Any borrower or
236 prospective borrower who may be damaged by failure to perform any
237 written agreements or commitments, or by the wrongful conversion of
238 funds paid by a borrower or prospective borrower to a licensee, may
239 proceed on such bond against the principal or surety thereon, or both,
240 to recover damages. The commissioner may proceed on such bond
241 against the principal or surety thereon, or both, to collect any civil
242 penalty imposed upon the licensee pursuant to subsection (a) of
243 section 36a-50, as amended. The proceeds of the bond, even if
244 commingled with other assets of the licensee, shall be deemed by
245 operation of law to be held in trust for the benefit of such claimants
246 against the licensee in the event of bankruptcy of the licensee and shall
247 be immune from attachment by creditors and judgment creditors. The
248 bond shall run concurrently with the period of the license granted to
249 the applicant, and the aggregate liability under the bond shall not
250 exceed the penal sum of the bond.

251 (b) The surety company shall have the right to cancel the bond at
252 any time by a written notice to the licensee stating the date cancellation
253 shall take effect. Such notice shall be sent by certified mail to the
254 licensee at least thirty days prior to the date of cancellation. A surety
255 bond shall not be cancelled unless the surety company notifies the
256 commissioner in writing not less than thirty days prior to the effective
257 date of cancellation. The commissioner shall automatically suspend the
258 license on the date the cancellation takes effect, unless the surety bond
259 has been replaced or renewed. The commissioner shall give the
260 licensee notice of the automatic suspension pending proceedings for
261 revocation or refusal to renew and an opportunity for a hearing on
262 such actions in accordance with section 36a-51.

263 Sec. 8. Section 36a-494 of the general statutes is repealed and the
264 following is substituted in lieu thereof (*Effective October 1, 2004*):

265 (a) (1) The commissioner may suspend, revoke or refuse to renew
266 any license, in accordance with the provisions of section 36a-51, for any

267 reason which would be sufficient grounds for the commissioner to
268 deny an application for a license under sections 36a-485 to [36a-498]
269 36a-498a, inclusive, as amended by this act, or if the commissioner
270 finds that the licensee or any proprietor, director, officer, member,
271 partner, shareholder, trustee, employee or agent of such licensee has
272 done any of the following: (A) Made any material misstatement in the
273 application; (B) committed any fraud, misappropriated funds or
274 misrepresented, concealed, suppressed, intentionally omitted or
275 otherwise intentionally failed to disclose any of the material particulars
276 of any first mortgage loan transaction, including disclosures required
277 by subdivision (6) of subsection (a) of section 36a-493, or part III of
278 chapter 669 or regulations adopted pursuant thereto, to anyone
279 entitled to such information; (C) violated any of the provisions of this
280 title or of any regulations adopted pursuant thereto, or any other law
281 or regulation applicable to the conduct of its business; or (D) failed to
282 perform any agreement with a licensee or a borrower.

283 (2) The commissioner may suspend, revoke or refuse to renew any
284 registration of an originator, in accordance with the provisions of
285 section 36a-51, for any reason which would be sufficient grounds for
286 the commissioner to deny an application for a registration under
287 sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by this
288 act, or if the commissioner finds that the registrant has committed any
289 fraud, misappropriated funds or misrepresented any of the material
290 particulars of any first mortgage loan transaction.

291 (b) Whenever it appears to the commissioner that any person has
292 violated, is violating or is about to violate any of the provisions of
293 sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by this
294 act, or any regulation adopted pursuant thereto, or any licensee has
295 failed to perform any agreement with a borrower, the commissioner
296 may take action against such person or licensee in accordance with
297 [section] sections 36a-50, as amended, and 36a-52.

298 Sec. 9. Section 36a-496 of the general statutes is repealed and the
299 following is substituted in lieu thereof (*Effective October 1, 2004*):

300 No person engaged in the business of making first mortgage loans
301 in this state, whether licensed in accordance with the provisions of
302 sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by this
303 act, or exempt from licensing, shall accept applications or referral of
304 applicants from, or pay a fee to, any first mortgage broker or originator
305 who is required to be licensed or registered under said sections but is
306 not licensed or registered to act as such by the commissioner, if the
307 mortgage lender has actual knowledge that the first mortgage broker
308 or originator is not licensed or registered by the commissioner.

309 Sec. 10. Section 36a-498 of the general statutes is repealed and the
310 following is substituted in lieu thereof (*Effective October 1, 2004*):

311 (a) Except as provided in subsection (c) of this section, every
312 advance fee paid or given, directly or indirectly, to a mortgage lender
313 or first mortgage broker required to be licensed pursuant to sections
314 36a-485 to [36a-498] 36a-498a, inclusive, as amended by this act, shall
315 be refundable.

316 (b) No originator required to be registered pursuant to sections 36a-
317 485 to [36a-498] 36a-498a, inclusive, as amended by this act, shall
318 accept payment of any advance fee except an advance fee on behalf of
319 a licensee. Nothing in this subsection shall be construed as prohibiting
320 the licensee from paying an originator all or part of an advance fee,
321 provided such advance fee paid is not refundable under this section.

322 (c) Subsection (a) of this section shall not apply if: (1) The person
323 providing the advance fee and the mortgage lender or first mortgage
324 broker agree in writing that the advance fee shall not be refundable, in
325 whole or in part; and (2) the written agreement complies in all respects
326 with the provisions of subsection (d) of this section.

327 (d) An agreement under subsection (c) of this section shall meet all
328 of the following requirements to be valid and enforceable: (1) The
329 agreement shall be dated, signed by both parties, and be executed
330 prior to the payment of any advance fee; (2) the agreement shall
331 expressly state the total advance fee required to be paid and any

332 amount of the advance fee that shall not be refundable; (3) the
333 agreement shall clearly and conspicuously state any conditions under
334 which the advance fee will be retained by the licensee; (4) the term
335 "nonrefundable" shall be used to describe each advance fee or portion
336 thereof to which the term is applicable, and shall appear in boldface
337 type in the agreement each time it is used; and (5) the form of the
338 agreement shall (A) be separate from any other forms, contracts, or
339 applications utilized by the licensee, (B) contain a heading in a size
340 equal to at least ten-point boldface type that shall title the form
341 "AGREEMENT CONCERNING NONREFUNDABILITY OF
342 ADVANCE FEE", (C) provide for a duplicate copy which shall be
343 given to the person paying the advance fee at the time of payment of
344 the advance fee, and (D) include such other specifications as the
345 commissioner may by regulation prescribe.

346 (e) An agreement under subsection (c) of this section that does not
347 meet the requirements of subsection (d) of this section shall be
348 voidable at the election of the person paying the advance fee.

349 Sec. 11. Section 36a-498a of the general statutes is repealed and the
350 following is substituted in lieu thereof (*Effective October 1, 2004*):

351 No licensee under section 36a-489, as amended by this act, and no
352 person exempt from licensure under subdivisions (1), (5) and (6) of
353 section 36a-487, as amended by this act, making a first mortgage loan
354 shall charge, impose or cause to be paid, directly or indirectly, prepaid
355 finance charges that exceed in the aggregate, the greater of five per
356 cent of the principal amount of the loan or two thousand dollars. If the
357 proceeds of the loan are used to refinance an existing loan, the
358 aggregate of the prepaid finance charges for the current refinancing
359 and any previous financings by such licensee or exempt person or
360 affiliate of such licensee or exempt person within two years of the
361 current refinancing shall not exceed the greater of five per cent of the
362 principal amount of the initial loan or two thousand dollars. The
363 provisions of this section shall not prohibit such licensee or exempt
364 person from charging, imposing or causing to be paid, directly or

365 indirectly, prepaid finance charges in addition to those permitted by
366 this section in connection with any additional proceeds received by the
367 borrower in the refinancing, provided such prepaid finance charges on
368 the additional proceeds shall not exceed five per cent of the additional
369 proceeds. For purposes of this section, "additional proceeds" has the
370 meaning given to that term in subdivision (3) of section 36a-746e and
371 "prepaid finance charge" has the meaning given to that term in
372 subdivision [(6)] (7) of section 36a-746a.

373 Sec. 12. Subsection (b) of section 36a-511 of the general statutes is
374 repealed and the following is substituted in lieu thereof (*Effective*
375 *October 1, 2004*):

376 (b) No licensee shall employ or retain an originator without first
377 registering such originator under sections 36a-510 to 36a-524, inclusive,
378 provided such registration shall not be required for any originator who
379 is registered by such licensee under sections 36a-485 to [36a-498] 36a-
380 498a, inclusive, as amended by this act. No individual may act as an
381 originator without being registered, or act as an originator, as defined
382 in sections 36a-485, as amended by this act, and 36a-510, for more than
383 one person. The registration of an originator is not effective during any
384 period when such originator is not associated with a licensee. Both the
385 originator and the licensee shall promptly notify the commissioner, in
386 writing, of the termination of employment or services of an originator.

387 Sec. 13. Section 36a-512 of the general statutes is repealed and the
388 following is substituted in lieu thereof (*Effective October 1, 2004*):

389 The following are exempt from the licensing requirements of
390 sections 36a-510 to 36a-524, inclusive, as amended by this act: (1)
391 Persons licensed as small business investment companies by the Small
392 Business Administration; (2) persons owning real property who take
393 back from the buyer of such property a secondary mortgage loan in
394 lieu of any portion of the purchase price of the property; (3) persons
395 making secondary mortgage loans to persons related to the lender by
396 blood or marriage; (4) any bank, out-of-state bank, Connecticut credit

397 union, federal credit union or out-of-state credit union, provided
398 subsidiaries of such institutions are not exempt from licensure; (5)
399 persons making five or fewer secondary mortgage loans within any
400 twelve consecutive months, provided (A) the aggregate total of such
401 loans does not exceed one hundred thousand dollars, (B) each
402 individual loan does not exceed twenty thousand dollars, and (C) such
403 loans are written in compliance with section 36a-521, as amended; (6)
404 nonprofit corporations making secondary mortgage loans to promote
405 home ownership or improvements for the disadvantaged; (7) agencies
406 of the federal government or any state or municipal government or
407 any quasi-governmental agency making secondary mortgage loans
408 under the specific authority of the laws of this state or the United
409 States; (8) persons licensed under sections 36a-555 to 36a-573, inclusive,
410 as amended by this act, when making loans authorized by said
411 sections; (9) persons licensed under sections 36a-485 to [36a-498] 36a-
412 498a, inclusive, as amended by this act, when making loans authorized
413 by said sections, provided such licensed lender makes fewer than
414 twelve secondary mortgage loans within any twelve consecutive
415 months and such loans are written in compliance with section 36a-521,
416 as amended; (10) any corporation or its affiliate which makes mortgage
417 loans exclusively for the benefit of its employees or agents; (11) any
418 corporation, licensed in accordance with section 38a-41 or its affiliate
419 or subsidiary, which makes secondary mortgage loans to promote
420 home ownership in urban areas; and (12) persons acting as fiduciaries
421 with respect to any employee pension benefit plan qualified under the
422 Internal Revenue Code of 1986, or any subsequent corresponding
423 internal revenue code of the United States, as from time to time
424 amended, who make secondary mortgage loans solely to plan
425 participants from plan assets.

426 Sec. 14. Section 36a-514 of the general statutes is repealed and the
427 following is substituted in lieu thereof (*Effective October 1, 2004*):

428 (a) (1) Each applicant for a secondary mortgage lender license or a
429 secondary mortgage correspondent lender license, at the time of
430 making such application, shall pay to the commissioner a license fee of

431 eight hundred dollars, provided if such application is filed not earlier
432 than one year before the date such license will expire, the applicant
433 shall pay to the commissioner a license fee of four hundred dollars,
434 and if such application is for renewal of a license that expires on June
435 30, 2003, the applicant shall pay to the commissioner a license fee of
436 five hundred dollars. Each applicant for a secondary mortgage broker
437 license, at the time of making such application, shall pay to the
438 commissioner a license fee of four hundred dollars, provided if such
439 application is filed not earlier than one year before the date such
440 license will expire, the applicant shall pay to the commissioner a
441 license fee of two hundred dollars, and if such application is for
442 renewal of a license that expires on June 30, 2003, the applicant shall
443 pay to the commissioner a license fee of two hundred fifty dollars.
444 Each license issued pursuant to this section shall expire at the close of
445 business on September thirtieth of the even-numbered year following
446 its issuance unless such license is renewed. Each licensee shall, on or
447 before September first of the year in which the license expires, or in the
448 case of a license that expires on June 30, 2003, on or before June 1, 2003,
449 file a renewal application and pay to the commissioner the appropriate
450 license fee as provided in this section to renew the license. Any
451 renewal application filed with the commissioner after September first,
452 or in the case of a license that expires on June 30, 2003, after June 1,
453 2003, shall be accompanied by a one-hundred-dollar late fee. (2)
454 Whenever an application for a license, other than a renewal
455 application, is filed under this section by any person who was a
456 licensee and whose license expired less than sixty days prior to the
457 date such application was filed, such application shall be accompanied
458 by a one-hundred-dollar processing fee in addition to the application
459 fee.

460 (b) A licensee filing an application for registration of an originator
461 shall, at the time of making such application pay to the commissioner a
462 registration fee of one hundred dollars for each originator, provided if
463 such application is filed not earlier than one year before the date the
464 license of the applicant will expire, the applicant shall pay to the

465 commissioner a registration fee of fifty dollars for each originator. Each
466 registration shall expire at such time as the licensee's license expires
467 unless such registration is renewed. Such licensee shall file an
468 application for renewal of the registration and pay to the commissioner
469 the appropriate registration fee as provided in this subsection for the
470 succeeding two years, commencing October first.

471 (c) (1) If the commissioner determines that a check filed with the
472 commissioner to pay a fee under subsection (a) of this section has been
473 dishonored, the commissioner shall automatically suspend the license
474 or a renewal license that has been issued but is not yet effective. The
475 commissioner shall give the licensee notice of the automatic
476 suspension pending proceedings for revocation or refusal to renew
477 and an opportunity for a hearing on such actions in accordance with
478 section 36a-51.

479 (2) If the commissioner determines that a check filed with the
480 commissioner to pay a registration fee has been dishonored, the
481 commissioner shall automatically suspend the registration or a
482 registration that has been issued but is not yet effective. The
483 commissioner shall give the originator notice of the automatic
484 suspension and the licensee notice of the automatic suspension
485 pending proceedings for revocation or refusal to renew and an
486 opportunity for a hearing on such actions in accordance with section
487 36a-51.

488 ~~[(c)]~~ (d) No abatement of the license or registration fee shall be made
489 if the license or registration is surrendered, revoked or suspended
490 prior to the expiration of the period for which it was issued. All fees
491 required by this section shall be nonrefundable.

492 Sec. 15. Subsection (b) of section 36a-517 of the general statutes is
493 repealed and the following is substituted in lieu thereof (*Effective*
494 *October 1, 2004*):

495 (b) Whenever it appears to the commissioner that any person has
496 violated, is violating or is about to violate any of the provisions of

497 sections 36a-510 to 36a-524, inclusive, as amended by this act, or any
498 licensee has failed to perform any agreement with a borrower, the
499 commissioner may take action against such person or licensee in
500 accordance with [section] sections 36a-50, as amended, and 36a-52.

501 Sec. 16. Section 36a-539 of the general statutes is repealed and the
502 following is substituted in lieu thereof (*Effective October 1, 2004*):

503 (a) Each person applying to the commissioner for a sales finance
504 company license shall pay a license fee of eight hundred dollars,
505 provided if such application is filed not earlier than one year before the
506 date such license will expire, such person shall pay a license fee of four
507 hundred dollars. Each license issued pursuant to sections 36a-535 to
508 36a-546, inclusive, as amended by this act, shall expire at the close of
509 business on September thirtieth of the odd-numbered year following
510 its issuance unless such license is renewed, provided any license that is
511 renewed effective July 1, 2003, shall expire on September 30, 2005.
512 Whenever an application for a license is filed under this section by any
513 person who was a licensee under sections 36a-535 to 36a-546, inclusive,
514 as amended by this act, and whose license expired less than sixty days
515 prior to the date such application was filed, such application shall be
516 accompanied by a one-hundred-dollar processing fee in addition to the
517 application fee. Not more than one place of business shall be
518 maintained under the same license, but the commissioner may issue
519 more than one license to the same licensee upon receipt of an
520 application and the payment of the appropriate license fee.

521 (b) If the commissioner determines that a check filed with the
522 commissioner to pay a fee under subsection (a) of this section has been
523 dishonored, the commissioner shall automatically suspend the license.
524 The commissioner shall give the licensee notice of the automatic
525 suspension pending proceedings for revocation and an opportunity for
526 a hearing on such action in accordance with section 36a-51.

527 ~~[(b)]~~ (c) No abatement of the license fee shall be made if the license
528 is surrendered, revoked or suspended prior to the expiration of the

529 period for which it was issued. All fees required by this section and
530 section 36a-542, as amended by this act, shall be nonrefundable.

531 Sec. 17. Section 36a-542 of the general statutes is repealed and the
532 following is substituted in lieu thereof (*Effective October 1, 2004*):

533 (a) Each person licensed as a sales finance company may renew
534 such license by filing with the commissioner on or before September
535 first of the year in which the license expires or, in the case of a license
536 that expires on June 30, 2003, on or before June 1, 2003, a renewal
537 application on a form prescribed by the commissioner under oath,
538 together with such exhibits and other pertinent information as the
539 commissioner may require. The license fee shall be eight hundred
540 dollars, provided the license fee for renewal of a license that expires on
541 June 30, 2003, shall be nine hundred dollars. Any renewal application
542 filed with the commissioner under this section after September first, or
543 in the case of a license that expires on June 30, 2003, after June 1, 2003,
544 shall be accompanied by a one-hundred-dollar late fee.

545 (b) If the commissioner determines that a check filed with the
546 commissioner to pay a fee under subsection (a) of this section for a
547 renewal application has been dishonored, the commissioner shall
548 automatically suspend the license or a renewal license that has been
549 issued but is not yet effective. The commissioner shall give the licensee
550 notice of the automatic suspension pending proceedings for revocation
551 or refusal to renew and an opportunity for a hearing on such actions in
552 accordance with section 36a-51.

553 Sec. 18. Subsection (d) of section 36a-543 of the general statutes is
554 repealed and the following is substituted in lieu thereof (*Effective*
555 *October 1, 2004*):

556 (d) Whenever it appears to the commissioner that any person has
557 violated, is violating or is about to violate any provision of sections
558 36a-535 to 36a-546, inclusive, as amended by this act, or any regulation
559 adopted under said sections, or that any licensee has defrauded any
560 retail buyer to the buyer's damage or wilfully failed to perform any

561 written agreement with any retail buyer, the commissioner may take
562 action against such person or such licensee in accordance with
563 [section] sections 36a-50, as amended, and 36a-52.

564 Sec. 19. Section 36a-555 of the general statutes is repealed and the
565 following is substituted in lieu thereof (*Effective October 1, 2004*):

566 No person shall engage in the business of making loans of money or
567 credit in the amount or to the value of fifteen thousand dollars or less
568 for loans made under section 36a-563 or section 36a-565, and charge,
569 contract for or receive a greater rate of interest, charge or consideration
570 than twelve per cent per annum therefor, [except] unless licensed to do
571 so by the commissioner pursuant to sections 36a-555 to 36a-573,
572 inclusive, as amended by this act. The provisions of this section shall
573 not apply to (1) a bank, (2) an out-of-state bank, (3) a Connecticut
574 credit union, (4) a federal credit union, (5) an out-of-state credit union,
575 (6) a savings and loan association wholly owned subsidiary service
576 corporation, (7) a person to the extent that such person makes loans for
577 agricultural, commercial, industrial or governmental use or extends
578 credit through an open-end credit plan, as defined in subdivision (8) of
579 section 36a-676, for the retail purchase of consumer goods or services,
580 (8) a mortgage lender licensed pursuant to sections 36a-485 to [36a-498]
581 36a-498a, inclusive, as amended by this act, when making first
582 mortgage loans, as defined in section 36a-485, as amended by this act,
583 (9) a mortgage lender licensed pursuant to sections 36a-510 to 36a-524,
584 inclusive, as amended by this act, when making secondary mortgage
585 loans, as defined in section 36a-510, or (10) a licensed pawnbroker. [,
586 unless licensed to do so by the commissioner as provided in sections
587 36a-555 to 36a-573, inclusive.]

588 Sec. 20. Section 36a-558 of the general statutes is repealed and the
589 following is substituted in lieu thereof (*Effective October 1, 2004*):

590 (a) Each applicant for a small loan lender license, at the time of
591 making such application, shall pay to the commissioner a license fee of
592 eight hundred dollars, provided if such application is filed not earlier

593 than one year before the date such license will expire, the applicant
594 shall pay to the commissioner a license fee of four hundred dollars.
595 Each such license shall expire at the close of business on September
596 thirtieth of the odd-numbered year following its issuance, unless such
597 license is renewed, provided any license that is renewed effective July
598 1, 2003, shall expire on September 30, 2005. Each licensee shall, on or
599 before September first of the year in which the license expires, or in the
600 case of a license that expires on June 30, 2003, on or before June 1, 2003,
601 file a renewal application and pay to the commissioner a license fee of
602 eight hundred dollars to renew the license, provided if such
603 application is for renewal of a license that expires on June 30, 2003, the
604 applicant shall pay the commissioner a license fee of nine hundred
605 dollars. Any renewal application filed with the commissioner after
606 September first, or in the case of a license that expires on June 30, 2003,
607 after June 1, 2003, shall be accompanied by a one-hundred-dollar late
608 fee. Whenever an application for a license, other than a renewal
609 application, is filed under this section by any person who was a
610 licensee and whose license expired less than sixty days prior to the
611 date such application was filed, such application shall be accompanied
612 by a one-hundred-dollar processing fee in addition to the application
613 fee. Each applicant shall pay the expenses of any examination or
614 investigation made under sections 36a-555 to 36a-573, inclusive, as
615 amended by this act.

616 (b) If the commissioner determines that a check filed with the
617 commissioner to pay a fee under subsection (a) of this section has been
618 dishonored, the commissioner shall automatically suspend the license
619 or a renewal license that has been issued but is not yet effective. The
620 commissioner shall give the licensee notice of the automatic
621 suspension pending proceedings for revocation or refusal to renew
622 and an opportunity for a hearing on such actions in accordance with
623 section 36a-51.

624 ~~[(b)]~~ (c) No abatement of the license fee shall be made if the license
625 is surrendered, revoked or suspended prior to the expiration of the
626 period for which it was issued. All fees required by this section shall be

627 nonrefundable.

628 Sec. 21. Section 36a-572 of the general statutes is repealed and the
629 following is substituted in lieu thereof (*Effective October 1, 2004*):

630 The commissioner may, in accordance with section 36a-51, suspend,
631 revoke or refuse to renew any license issued under the provisions of
632 section 36a-556 if the commissioner finds that the licensee has violated
633 any provision of sections 36a-555 to 36a-573, inclusive, as amended by
634 this act, or any regulation or order lawfully made pursuant to and
635 within the authority of said sections, or if the commissioner finds that
636 any fact or condition exists which, if it had existed at the time of the
637 original application for the license, clearly would have warranted a
638 denial of such license.

639 Sec. 22. Section 36a-633 of the general statutes is repealed and the
640 following is substituted in lieu thereof (*Effective October 1, 2004*):

641 (a) Each applicant for a license, at the time of making such
642 application, shall pay to the commissioner a nonrefundable license fee
643 of four hundred dollars. Each license issued pursuant to this [section]
644 subsection shall expire at the close of business on June thirtieth of each
645 year, unless such license is renewed. Each licensee shall, on or before
646 June twentieth of each year, pay to the commissioner the sum of four
647 hundred dollars as a license fee for the succeeding year, commencing
648 July first. Each applicant or licensee shall pay the expenses of any
649 examination or investigation made under sections 36a-625 to 36a-634,
650 inclusive, as amended by this act.

651 (b) If the commissioner determines that a check filed with the
652 commissioner to pay a license fee has been dishonored, the
653 commissioner shall automatically suspend the license or a renewal
654 license that has been issued but is not yet effective. The commissioner
655 shall give the licensee notice of the automatic suspension pending
656 proceedings for revocation or refusal to renew and an opportunity for
657 a hearing on such actions in accordance with section 36a-51.

658 Sec. 23. Subdivision (2) of section 36a-645 of the general statutes is
659 repealed and the following is substituted in lieu thereof (*Effective*
660 *October 1, 2004*):

661 (2) "Creditor" means (i) any person to whom a debt is owed by a
662 consumer debtor and such debt results from a transaction occurring in
663 the ordinary course of such person's business, or (ii) any person to
664 whom such debt is assigned. "Creditor" shall not include a consumer
665 collection agency, as defined in section 36a-800, as amended, or any
666 department or agency of the United States, this state, any other state,
667 or any political subdivision thereof.

668 Sec. 24. Section 36a-656 of the general statutes is repealed and the
669 following is substituted in lieu thereof (*Effective October 1, 2004*):

670 (a) No person, other than a bona fide nonprofit organization, shall
671 engage in the business of debt adjustment in this state. No bona fide
672 nonprofit organization shall engage in the business of debt adjustment
673 in this state without a debt adjuster license. Any bona fide nonprofit
674 organization desiring to obtain such a license shall file with the
675 commissioner an application under oath, setting forth such
676 information as the commissioner may require. Each applicant for a
677 license and each licensee shall notify the commissioner of any change
678 in the applicant's business from that stated in the application for the
679 license.

680 (b) If the commissioner finds, upon the filing of an application for a
681 debt adjuster license, that: (1) The financial responsibility, character,
682 reputation, integrity and general fitness of the applicant and of the
683 partners thereof if the applicant is a partnership, of the members if the
684 applicant is a limited liability company or association, and of the
685 officers, directors and principal employees if the applicant is a
686 corporation, are such as to warrant belief that the business will be
687 operated soundly and efficiently, in the public interest and consistent
688 with the purposes of sections 36a-655 to 36a-665, inclusive, as amended
689 by this act; and (2) the applicant is solvent and no proceeding in

690 bankruptcy, receivership or assignment for the benefit of creditors has
691 been commenced against the applicant, the commissioner may
692 thereupon issue the applicant a debt adjuster license. If the
693 commissioner fails to make such findings, the commissioner shall not
694 issue a license and shall notify the applicant of the reasons for such
695 denial. Any denial of an application by the commissioner shall, when
696 applicable, be subject to the provisions of section 46a-80.

697 (c) Each applicant for an original debt adjuster license shall, at the
698 time of making such application, pay to the commissioner an
699 application fee of two hundred fifty dollars. Each such license shall
700 expire at the close of business on September thirtieth of the odd-
701 numbered year following its issuance unless such license is renewed.
702 Any license issued prior to October 1, 2002, shall expire on September
703 30, 2003, unless renewed. Each licensee shall, on or before September
704 first of the year in which the license expires, file such renewal
705 application as the commissioner may require.

706 (d) If the commissioner determines that a check filed with the
707 commissioner to pay an application fee has been dishonored, the
708 commissioner shall automatically suspend the license or a renewal
709 license that has been issued but is not yet effective. The commissioner
710 shall give the licensee notice of the automatic suspension pending
711 proceedings for revocation or refusal to renew and an opportunity for
712 a hearing on such actions in accordance with section 36a-51.

713 ~~[(d)]~~ (e) No abatement of the license fee shall be made if the license
714 is surrendered, revoked or suspended prior to the expiration of the
715 period for which it was issued. The fee required by subsection (c) of
716 this section shall be nonrefundable.

717 Sec. 25. Section 36a-664 of the general statutes is repealed and the
718 following is substituted in lieu thereof (*Effective October 1, 2004*):

719 (a) (1) ~~[No]~~ Except as provided in subdivision (2) of this subsection,
720 no such license, and no renewal thereof, shall be granted unless the
721 applicant has filed a surety bond with the commissioner written by a

722 surety authorized to write such bonds in this state, [the form of which
723 shall be approved by the Attorney General,] provided any applicant
724 that files applications for licenses for more than one location shall file a
725 single bond. For every applicant, the principal amount of the bond
726 shall be the greater of [(1)] (A) forty thousand dollars, or [(2)] (B) twice
727 the amount of the highest total payments received by the applicant
728 from Connecticut debtors in connection with the applicant's debt
729 adjustment activity in any month during the preceding twelve months
730 ending [July] March thirty-first of each year. [The] Each licensee shall
731 submit to the commissioner [such bond or renewal thereof] evidence
732 that the bond complies with the provisions of this subdivision by
733 September first of each year. [Such bond shall be conditioned upon
734 such licensee faithfully performing any and all written agreements
735 with debtors, truly and faithfully accounting for all funds received by
736 the licensee in the licensee's capacity as a debt adjuster, and
737 conducting such business consistent with the provisions of sections
738 36a-655 to 36a-665, inclusive. Any debtor who may be damaged by
739 failure to perform any written agreements, or by the wrongful
740 conversion of funds paid to a licensee, may proceed on such bond
741 against the principal or surety thereon, or both, to recover damages.
742 The commissioner may proceed on such bond against the principal or
743 surety thereon, or both, to collect any civil penalty imposed upon the
744 licensee pursuant to subsection (a) of section 36a-50. The proceeds of
745 the bond, even if commingled with other assets of the licensee, shall be
746 deemed by operation of law to be held in trust for the benefit of such
747 claimants against the licensee in the event of bankruptcy of the licensee
748 and shall be immune from attachment by creditors and judgment
749 creditors. The bond shall be maintained during the entire period of the
750 license granted to the applicant, and the aggregate liability under the
751 bond shall not exceed the penal sum of the bond.]

752 (2) If a licensee or applicant for renewal of a license establishes that
753 such licensee or applicant is unable to comply with the bond required
754 by subdivision (1) of this subsection, it may submit to the
755 commissioner, by July first, a request for an alternative to such

756 requirement. If the commissioner finds that the financial responsibility,
757 character, reputation, integrity and general fitness of the applicant so
758 warrant, the commissioner may permit the applicant or licensee to
759 supplement the maximum surety bond that it can obtain, provided the
760 principal amount of the surety bond shall be a minimum of forty
761 thousand dollars, with such other bonds or insurance policies, in such
762 amounts, for such period and subject to such conditions as the
763 commissioner may approve. Any such bond or insurance policy shall
764 be written or issued by a surety or insurance company authorized to
765 write such bonds or sell such insurance in this state.

766 (3) The form of any surety bond submitted pursuant to this section
767 shall be approved by the Attorney General. Any surety bond filed
768 under this section shall be conditioned upon the licensee faithfully
769 performing any and all written agreements with debtors, truly and
770 faithfully accounting for all funds received by the licensee in the
771 licensee's capacity as a debt adjuster, and conducting such business
772 consistent with the provisions of sections 36a-655 to 36a-665, inclusive,
773 as amended by this act. Any debtor who may be damaged by failure to
774 perform any written agreements, or by the wrongful conversion of
775 funds paid to a licensee, may proceed on any such surety bond against
776 the principal or surety thereon, or both, to recover damages. The
777 commissioner may proceed on any such surety bond against the
778 principal or surety thereon, or both, to collect any civil penalty
779 imposed upon the licensee pursuant to subsection (a) of section 36a-50.
780 The proceeds of any bond or insurance policy, even if commingled
781 with other assets of the licensee, shall be deemed by operation of law
782 to be held in trust for the benefit of such claimants against the licensee
783 in the event of bankruptcy of the licensee and shall be immune from
784 attachment by creditors and judgment creditors. Any bond or
785 insurance policy required by this section shall be maintained during
786 the entire period of the license granted to the applicant, and the
787 aggregate liability under any such bond or insurance policy shall not
788 exceed the principal amount of the bond or the limit of liability of the
789 insurance policy.

790 (b) The surety or insurance company shall have the right to cancel
791 any bond or insurance policy written or issued under subsection (a) of
792 this section at any time by a written notice to the licensee, stating the
793 date cancellation shall take effect. Such notice shall be sent by certified
794 mail to the licensee at least thirty days prior to the date of cancellation.
795 No such bond shall be cancelled unless the surety or insurance
796 company notifies the commissioner in writing not less than thirty days
797 prior to the effective date of cancellation. The commissioner shall
798 automatically suspend the license on the date the cancellation takes
799 effect, unless the bond or insurance policy has been replaced or
800 renewed. The commissioner shall give the licensee notice of the
801 automatic suspension pending proceedings for revocation or refusal to
802 renew and an opportunity for a hearing on such actions in accordance
803 with section 36a-51.

804 [(b)] (c) No licensee shall use, attempt to use or make reference to,
805 either directly or indirectly, any word or phrase which states or
806 implies that the licensee is endorsed, sponsored, recommended, [or]
807 bonded or insured by the state.

808 Sec. 26. Section 36a-705 of the general statutes is repealed and the
809 following is substituted in lieu thereof (*Effective October 1, 2004*):

810 As used in this section and sections 36a-706 and 36a-707, unless the
811 context otherwise requires:

812 (1) "First mortgage loan" means any loan made to an individual, the
813 proceeds of which are to be used primarily for personal, family or
814 household purposes, which loan is secured by a mortgage upon any
815 interest in one-to-four-family residential, owner-occupied real
816 property located in this state which is not subject to any prior
817 mortgages. The term includes the renewal or refinancing of an existing
818 first mortgage loan;

819 (2) "Mortgage lender" means any person engaged in the business of
820 making first mortgage loans, including, but not limited to, banks, out-
821 of-state banks, Connecticut credit unions, federal credit unions, out-of-

822 state credit unions and first mortgage lenders required to be licensed
823 under sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by
824 this act; and

825 (3) "Mortgage rate lock-in" means any written agreement with a
826 mortgage applicant made by a mortgage lender or its representative,
827 prior to the issuance of a first mortgage loan commitment, in which the
828 mortgage lender agrees that a particular rate, number of points or
829 variable rate terms will be the rate, number of points, or variable rate
830 terms at which it will lend, provided the first mortgage loan is closed
831 within a specified period, and the applicant qualifies for the loan in
832 accordance with the lender's standards of credit worthiness.

833 Sec. 27. Section 36a-725 of the general statutes is repealed and the
834 following is substituted in lieu thereof (*Effective October 1, 2004*):

835 As used in this section and section 36a-726, unless the context
836 otherwise requires:

837 (1) "First mortgage loan" means any loan made to an individual, the
838 proceeds of which are to be used primarily for personal, family or
839 household purposes, which loan is secured by a mortgage upon any
840 interest in one-to-four-family residential, owner-occupied real
841 property located in this state which is not subject to any prior
842 mortgages. The term includes the renewal or refinancing of an existing
843 first mortgage loan;

844 (2) "Mortgage insurance" means insurance written by an
845 independent mortgage insurance company to protect the mortgage
846 lender against loss incurred in the event of a default by a borrower
847 under the mortgage loan;

848 (3) "Mortgage lender" means any person engaged in the business of
849 making first mortgage loans, including, but not limited to, banks, out-
850 of-state banks, Connecticut credit unions, federal credit unions, out-of-
851 state credit unions, and first mortgage lenders required to be licensed
852 under sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by

853 this act.

854 Sec. 28. Section 36a-736 of the general statutes is repealed and the
855 following is substituted in lieu thereof (*Effective October 1, 2004*):

856 As used in sections 36a-735 to 36a-744, inclusive, as amended by this
857 act, unless the context otherwise requires:

858 (1) "Applicant" means any person who applies for a home purchase
859 loan, home improvement loan or other mortgage loan as defined in
860 sections 36a-735 to 36a-744, inclusive, as amended by this act, whether
861 or not the loan is granted;

862 (2) "Federal Home Mortgage Disclosure Act" means the Home
863 Mortgage Disclosure Act of 1975 (12 USC section 2801 et seq.), as from
864 time to time amended, and any regulations promulgated by the
865 Federal Reserve Board pursuant to that act, except, for purposes of
866 sections 36a-735 to 36a-744, inclusive, as amended by this act, the
867 supervisory agency shall be the commissioner;

868 (3) "Financial institution" means any Connecticut bank or
869 Connecticut credit union which makes home purchase loans or home
870 improvement loans or any for profit mortgage lending institution
871 other than a Connecticut bank or Connecticut credit union, whose
872 home purchase loan originations equaled or exceeded ten per cent of
873 its loan origination volume, measured in dollars, in the preceding
874 calendar year, if such mortgage lending institution is licensed under
875 sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by this
876 act, or 36a-510 to 36a-524, inclusive, as amended by this act;

877 (4) "Home improvement loan" has the same meaning as provided in
878 the federal Home Mortgage Disclosure Act;

879 (5) "Home purchase loan" has the same meaning as provided in the
880 federal Home Mortgage Disclosure Act; and

881 (6) "Mortgage loan" means a loan which is secured by residential
882 real property.

883 Sec. 29. Section 36a-788 of the general statutes is repealed and the
884 following is substituted in lieu thereof (*Effective October 1, 2004*):

885 Whenever it appears to the commissioner that any person has
886 violated, is violating or is about to violate any provision of sections
887 36a-770 to 36a-788, inclusive, as amended by this act, 42-100b and 42-
888 100c, the commissioner may take action against such person in
889 accordance with [section] sections 36a-50, as amended, and 36a-52.

890 Sec. 30. Section 36a-801 of the general statutes is repealed and the
891 following is substituted in lieu thereof (*Effective October 1, 2004*):

892 (a) No person shall act within this state as a consumer collection
893 agency without a consumer collection agency license. A consumer
894 collection agency is acting within this state if it (1) has its place of
895 business located within this state; (2) has its place of business located
896 outside this state and collects from consumer debtors or property tax
897 debtors who reside within this state for creditors who are located
898 within this state; (3) has its place of business located outside this state
899 and regularly collects from consumer debtors or property tax debtors
900 who reside within this state for creditors who are located outside this
901 state; or (4) has its place of business located outside this state and is
902 engaged in the business of collecting child support for creditors
903 located within this state from consumer debtors who are located
904 outside this state.

905 (b) (1) Any person desiring to act within this state as a consumer
906 collection agency shall make a written application to the commissioner
907 for such license in such form as the commissioner prescribes. Such
908 application shall be accompanied by (A) a financial statement prepared
909 by a certified public accountant or a public accountant, the accuracy of
910 which is sworn to under oath before a notary public by the proprietor,
911 a general partner or a corporate officer or a member duly authorized to
912 execute such documents, (B) a license fee of eight hundred dollars, or
913 in the case of an initial application that is filed not earlier than one year
914 before the date such license will expire, a license fee of four hundred

915 dollars, and (C) an investigation fee of one hundred dollars. The
916 commissioner shall cause to be made such inquiry and examination as
917 to the qualifications of each such applicant as the commissioner deems
918 necessary. Each applicant shall furnish satisfactory evidence to the
919 commissioner that the applicant is a person of good moral character
920 and is financially responsible. If the commissioner is satisfied that such
921 applicant is in all respects properly qualified and trustworthy and that
922 the granting of such license is not against the public interest, the
923 commissioner may issue to such applicant a license, in such form as
924 the commissioner may adopt, to act within this state as a consumer
925 collection agency. Any such license issued by the commissioner shall
926 expire at the close of business on September thirtieth of the odd-
927 numbered year following its issuance, unless such license is renewed,
928 provided any license that is renewed effective May 1, 2003, shall expire
929 on September 30, 2005. The commissioner may renew such application,
930 in the commissioner's discretion, and upon filing of a proper renewal
931 application accompanied by a license fee of eight hundred dollars, or
932 in the case of an application for renewal of a license that expires on
933 April 30, 2003, a license fee of one thousand dollars, and satisfactory
934 proof that such applicant at that time possesses the required
935 qualifications for the license. Such renewal application shall be filed
936 with the commissioner on or before September first of the year in
937 which the license expires, or in the case of a license that expires on
938 April 30, 2003, on or before April 1, 2003. Any renewal application
939 filed with the commissioner after September first, or in the case of a
940 license that expires on April 30, 2003, after April 1, 2003, shall be
941 accompanied by a one-hundred-dollar late fee. Whenever an
942 application for a license, other than a renewal application, is filed
943 under sections 36a-800 to 36a-810, inclusive, as amended by this act, by
944 any person who was a licensee under said sections 36a-800 to 36a-810,
945 inclusive, as amended by this act, and whose license expired less than
946 sixty days prior to the date such application was filed, such application
947 shall be accompanied by a one-hundred-dollar processing fee in
948 addition to the application fee. To further the enforcement of this
949 section and to determine the eligibility of any person holding a license,

950 the commissioner may, as often as the commissioner deems necessary,
951 examine the licensee's books and records, and may, at any time,
952 require the licensee to submit such a financial statement for the
953 examination of the commissioner, so that the commissioner may
954 determine whether the licensee is financially responsible to carry on a
955 consumer collection agency business within the intents and purposes
956 of sections 36a-800 to 36a-810, inclusive, as amended by this act. Any
957 financial statement submitted by a licensee shall be confidential and
958 shall not be a public record unless introduced in evidence at a hearing
959 conducted by the commissioner.

960 (2) If the commissioner determines that a check filed with the
961 commissioner to pay a fee under subdivision (1) of this subsection has
962 been dishonored, the commissioner shall automatically suspend the
963 license or a renewal license that has been issued but is not yet effective.
964 The commissioner shall give the licensee notice of the automatic
965 suspension pending proceedings for revocation or refusal to renew
966 and an opportunity for a hearing on such actions in accordance with
967 section 36a-51.

968 ~~[(2)]~~ (3) No abatement of the license fee shall be made if the license
969 is surrendered, revoked or suspended prior to the expiration of the
970 period for which it was issued. All fees required by this section shall be
971 nonrefundable.

972 (c) No person, licensed to act within this state as a consumer
973 collection agency shall do so under any other name or at any other
974 place of business than that named in the license. Any change of
975 location of a place of business of a licensee shall require prior written
976 notice to the commissioner. Not more than one place of business shall
977 be maintained under the same license but the commissioner may issue
978 more than one license to the same licensee upon compliance with the
979 provisions of sections 36a-800 to 36a-810, inclusive, as amended by this
980 act, as to each new licensee. A license shall not be transferable or
981 assignable. Any licensee holding, applying for, or seeking renewal of
982 more than one license may, at its option, file the bond required under

983 section 36a-802, as amended by this act, separately for each place of
984 business licensed, or to be licensed, or a single bond, naming each
985 place of business, in an amount equal to five thousand dollars for each
986 place of business.

987 Sec. 31. Section 36a-802 of the general statutes, as amended by
988 section 2 of public act 03-262, is repealed and the following is
989 substituted in lieu thereof (*Effective October 1, 2004*):

990 (a) No such license and no renewal thereof shall be granted unless
991 the applicant has filed with the commissioner a bond to the people of
992 the state in the penal sum of five thousand dollars, approved by the
993 Attorney General as to form and by the commissioner as to sufficiency
994 of the security thereof. Such bond shall be conditioned that such
995 licensee shall well, truly and faithfully account for all funds entrusted
996 to the licensee and collected and received by the licensee in the
997 licensee's capacity as a consumer collection agency. Any person who
998 may be damaged by the wrongful conversion of any creditor,
999 consumer debtor or property tax debtor funds received by such
1000 consumer collection agency may proceed on such bond against the
1001 principal or surety thereon, or both, to recover damages. The
1002 commissioner may proceed on such bond against the principal or
1003 surety thereon, or both, to collect any civil penalty imposed upon the
1004 licensee pursuant to subsection (a) of section 36a-50, as amended. The
1005 proceeds of the bond, even if commingled with other assets of the
1006 licensee, shall be deemed by operation of law to be held in trust for the
1007 benefit of such claimants against the licensee in the event of
1008 bankruptcy of the licensee and shall be immune from attachment by
1009 creditors and judgment creditors. The bond shall run concurrently
1010 with the period of the license granted to the applicant, and the
1011 aggregate liability under the bond shall not exceed the penal sum of
1012 the bond.

1013 (b) The surety company shall have the right to cancel the bond at
1014 any time by a written notice to the licensee stating the date cancellation
1015 shall take effect. Such notice shall be sent by certified mail to the

1016 licensee at least thirty days prior to the date of cancellation. A surety
 1017 bond shall not be cancelled unless the surety company notifies the
 1018 commissioner in writing not less than thirty days prior to the effective
 1019 date of cancellation. The commissioner shall automatically suspend the
 1020 license on the date the cancellation takes effect, unless the surety bond
 1021 has been replaced or renewed. The commissioner shall give the
 1022 licensee notice of the automatic suspension pending proceedings for
 1023 revocation or refusal to renew and an opportunity for a hearing on
 1024 such actions in accordance with section 36a-51.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>October 1, 2004</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>October 1, 2004</i>
Sec. 12	<i>October 1, 2004</i>
Sec. 13	<i>October 1, 2004</i>
Sec. 14	<i>October 1, 2004</i>
Sec. 15	<i>October 1, 2004</i>
Sec. 16	<i>October 1, 2004</i>
Sec. 17	<i>October 1, 2004</i>
Sec. 18	<i>October 1, 2004</i>
Sec. 19	<i>October 1, 2004</i>
Sec. 20	<i>October 1, 2004</i>
Sec. 21	<i>October 1, 2004</i>
Sec. 22	<i>October 1, 2004</i>
Sec. 23	<i>October 1, 2004</i>
Sec. 24	<i>October 1, 2004</i>
Sec. 25	<i>October 1, 2004</i>

Sec. 26	<i>October 1, 2004</i>
Sec. 27	<i>October 1, 2004</i>
Sec. 28	<i>October 1, 2004</i>
Sec. 29	<i>October 1, 2004</i>
Sec. 30	<i>October 1, 2004</i>
Sec. 31	<i>October 1, 2004</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Banking Dept.	BF - Revenue Gain	Potential Minimal	Potential Minimal

Note: BF=Banking Fund

Municipal Impact: None

Explanation

The bill grants the commissioner additional enforcement authority over banking law violations. Under the bill, the commissioner would be able to impose a civil penalty on any sales finance company that defrauds a retail buyer or fails to perform a written agreement with the buyer. The maximum civil penalty would be \$100,000. If the commissioner does discover such violations, the fines for the civil penalty would result in a revenue gain. Therefore, the bill results in a potential minimal revenue gain for the Banking Department.

House "A" removes the associated minimal revenue loss to the General Fund which would have permitted the deduction of charges for the costs of storage, appraisal, advertising and sales commissions or safe deposit box rental charges from the value of unclaimed property before it is escheated to the state.

OLR Bill Analysis

sHB 5411 (as amended by House "A")*

AN ACT CONCERNING CONSUMER CREDIT LICENSEES AND CREDITORS' COLLECTION PRACTICES**SUMMARY:**

This bill requires the banking commissioner to suspend several Banking Department licensees' licenses automatically if a check used to pay their license fees is dishonored. It allows surety companies issuing bonds to certain licensees to cancel the bond by giving 30 days notice and requires the commissioner to suspend the license if a new or renewal bond is not in place. It increases the commissioner's enforcement authority over actions that constitute banking law violations. The bill expands debt adjusters' bond requirements and permits the commissioner to allow them to carry insurance if they cannot meet the required bond threshold.

*House Amendment "A" eliminates provisions from the original file allowing banks and other holders of unclaimed property to engage in certain activities in light of the unclaimed property provisions passed as part of PA 03-1, June 30 Special Session. It also removes a provision from the original file allowing banks to contract for, and impose fees in connection with, their deposit account and safe deposit business.

EFFECTIVE DATE: October 1, 2004

FIRST AND SECONDARY MORTGAGE LENDERS AND BROKERS (§§ 6, 7, 14, 15, 19)***License Fee Payment***

The bill requires the commissioner, if he determines that a check filed with his office to pay a license fee for a first or secondary mortgage lender, correspondent lender, or broker has been dishonored, to suspend automatically the license or a renewal license that has been issued but is not yet effective. He must give the licensee notice of the

suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on those actions. The bill also requires the commissioner, if he determines that a check used to pay an originator's registration fee has been dishonored, to suspend automatically the registration or a registration that has been issued but is not yet effective. He must give the originator and licensee for whom the originator works notice of the suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on those actions.

Surety Bonds

The bill allows the surety company issuing a bond for a first mortgage lender, correspondent lender, or broker licensee to cancel the bond at any time by written notice to the licensee stating the cancellation's effective date. The notice must be sent at least 30 days before the cancellation date to (1) the licensee, by certified mail, and (2) the banking commissioner. The bill requires the commissioner to suspend the license automatically on the cancellation date unless the surety bond has been replaced or renewed. The commissioner must give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on those actions.

Banking Law Violations

The law allows the commissioner to bring an action to enforce the banking laws if it appears to him that someone has violated, is violating, or is about to violate the mortgage lender, broker, or originator statutes, or that a licensee has failed to perform an agreement with a borrower. The bill allows him also to issue a cease and desist order under those circumstances. It also clarifies that first and secondary mortgage lender licensees do not have to be licensed as small loan lenders when making first or secondary mortgage loans, as applicable, for \$15,000 or less with an annual interest rate over 12%.

OTHER BANKING DEPARTMENT LICENSEES (§§ 16, 17, 20, 22, 24, 30)

The bill requires the commissioner to suspend automatically the license of a sales finance company, small loan lender, business and industrial development corporation, debt adjuster, or consumer credit

licensee if he determines that a check filed with his office to pay a license or application fee has been dishonored. The suspension applies to fees for licenses and for renewal licenses that have been issued but are not yet effective. The commissioner must give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on those actions.

SALES FINANCE COMPANIES (§§ 18, 19)

The bill allows the commissioner to take enforcement action, including issuing a cease and desist order, against a sales finance company licensee if it appears that the licensee has defrauded any retail buyer to the buyer's damage or willfully failed to perform a written agreement with a retail buyer. It also allows him to issue a cease and desist order if it appears to him that someone has violated, is violating, or is about to violate the sales finance company laws.

SMALL LOAN LENDERS (§ 21)

The bill allows the commissioner to suspend or refuse to renew a small loan lender's license if he finds the licensee has violated a provision of the small loan lender statutes or regulations, or if he learns of a fact or condition that, if it had existed at the time of the original license application, clearly would have warranted a denial of the license. The law already allows him to revoke a license for these reasons.

CREDIT COLLECTION PRACTICES (§ 23)

Current law defines a "creditor" for credit collection purposes as a person to whom a consumer debtor owes a debt resulting from a transaction occurring in the ordinary course of the person's business. The bill expands the definition to include any person to whom that debt is assigned.

DEBT ADJUSTER BOND REQUIREMENT (§ 25)

The bill moves, from July 31 to March 31, the ending date of each year for which a debt adjuster's adjustment activity is measured in order to calculate the amount of the bond it must file. It removes a requirement that the licensee submit the bond or its renewal to the commissioner, instead requiring the licensee to submit evidence that the bond complies with the statutes.

If an applicant for an initial or renewal debt adjuster license establishes that it is unable to comply with the bond requirement, the bill allows it to submit to the commissioner, by July 1, a request for an alternative to the bond requirement. If the commissioner finds the applicant's financial responsibility, character, reputation, integrity, and general fitness so warrant, he may permit the applicant or licensee to supplement the maximum surety bond that it can obtain, which must be at least \$40,000, with other bonds and insurance policies, in such amounts, for such periods, and subject to such conditions, as he approves. The bond or insurance policy must be written or issued by a surety or company authorized to do business in Connecticut.

Current law requires an applicant or licensee filing a bond to maintain it during the entire license period, and prohibits its aggregate liability under the bond from exceeding the bond's principal amount. The bill requires the aggregate liability to remain under the limit of both the bond's principal amount and the insurance policy's liability. Current law also prohibits a licensee from using, attempting to use, or making reference to any word or phrase suggesting that it is endorsed, sponsored, recommended, or bonded by the state. The bill also prohibits a licensee from indicating that it is insured by the state.

The bill gives a surety or insurance company the right to cancel any bond or insurance policy it writes or issues to a debt adjuster at any time by providing written notice to the licensee, stating the cancellation's effective date. The notice must be sent at least 30 days before the cancellation date to (1) the licensee, by certified mail, and (2) the banking commissioner. The bill requires the commissioner to suspend the license automatically on the cancellation date unless the surety bond or insurance policy has been replaced or renewed. The commissioner must give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on those actions.

RETAIL INSTALLMENT SALES FINANCING (§ 29)

The bill allows the commissioner to order someone to cease and desist whenever it appears that the person has violated, is violating, or is about to violate the retail installment sales financing laws.

CONSUMER COLLECTION AGENCY BOND REQUIREMENT (§ 31)

The bill allows the surety company issuing a consumer collection agency licensee's bond to cancel it at any time by written notice to the licensee stating the cancellation's effective date. The notice must be sent at least 30 days before the cancellation date to (1) the licensee, by certified mail, and (2) the commissioner. The bill requires the commissioner to suspend the license automatically on the cancellation date unless the surety bond has been replaced or renewed. The commissioner must give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on those actions.

BACKGROUND

Related Act

PA 04-14 requires the banking commissioner, if he determines that a check filed with his office to pay an application or license fee has been dishonored, to suspend automatically a check cashing service's license or approval or renewal license that has been issued but is not yet effective. He must give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on those actions. The same provisions apply to dishonored checks to pay the investigation or license fee for a money transmission renewal license.

Legislative History

On March 23, the House referred this bill to the Judiciary Committee, which reported it favorably and without change on April 2.

COMMITTEE ACTION

Banks Committee

Joint Favorable Substitute
Yea 17 Nay 0

Judiciary Committee

Joint Favorable Report
Yea 36 Nay 0

